

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.51 of 2009

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Surendra Nath Gupta Son of Late Harihar Prasad, resident of village –
Dighwara, Police Station – Dighwara, District – Saran.

.... Petitioner.

Versus

1. State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Superintendent of Police, Supaul.
3. The Sub Divisional Police Officer, Birpur, Supaul.
4. Purushottam Agarwal son of late Moti Agarwal, resident of Quarter No.
25/1, Marwari Arogya Bhawan, Bariyatu Road, Police Station –
Doranda, District – Ranchi.
5. Kanhaiya Agarwal son of late Satya Narayan Agarwal, resident of
village – Raghapur, Police Station – Raghapur, District – Supaul.

.... Respondents.

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Appearance :

For the Petitioner/s : Mr. Syed Asgher Najmi, Adv.
Mr. Mritunjay Kumar Singh, Adv.

For the Respondent/s : Mr. (AAG-8)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD
ORAL ORDER

6 31-08-2018 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner in the present case is a retired employee of
Central Bank of India who is seeking quashing of Raghapur P.S.
Case No. 125 of 2008 registered on 16.12.2008 under various
provisions of the Indian Penal Code. Learned counsel for the
petitioner submits that while working as a Branch manager at
Raghapur Branch of Central Bank of India this petitioner has
made payment of Rs. 3,67,546/- to the registered nominee of the
deceased account holder Late Moti Lal Agarwal but a false



allegation has been made in the first information report saying that this petitioner had acted in connivance with certain person and based on forged death certificate and on a wrong report this petitioner had made payment.

Learned counsel for the petitioner has stereously argued the matter and submitted that the petitioner had made payment on the basis of the nomination available in the bank account. A copy of the letter and said nomination have been shown as Annexure- 3 and 4 respectively. Annexure-3 is in form of a letter allegedly written by said Moti Lal Agarwal prior to his death. This letter is further strengthened by a copy of the nomination registration paper.

In the opinion of this Court, this first information report is *prima-facie* disclosing certain allegations and such allegations cannot be answered or disbelieved by referring to the letter and the nomination paper which the petitioner have been claiming as Annexure-3 and 4 to the writ application. This Court is not willing to stop the investigation itself at this stage as it is the opinion of this Court that in case the petitioner participates in the investigation and places all such materials which he would like to bring to the notice of the investigating agency, if investigation is still pending the same may be considered and based on that an



appropriate view may be taken by the investigating agency. These are not to the documents to be relied upon when brought by way of annexures in the writ petition.

This Court also finds that the four steps test provided by the Hon'ble Supreme Court in the case of **Prashant Bharti vs. NCT of Delhi** reported in (2013) 9 SCC 293 are not satisfied in the facts of the present case.

This writ application is, therefore, disposed off in aforementioned terms.

(Rajeev Ranjan Prasad, J)

Ved/-

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